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National Governors Association

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May 25, 2001

Mr. David Geiser
Director, Office of Long-Term Stewardship
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C.

Dear Mr. Geiser:

Thank you for the opportunity to review an early draft¹ of the Long-term Stewardship (LTS) Plan Guidance. We understand that, in response to review by DOE staff, you are currently considering major revisions to the draft. With that in mind, the National Governors' Association Federal Facilities Task Force Long-term Stewardship Committee offers the following comments as the key themes that have emerged from our review of the draft guidance to date.

Site- and Complex-Wide LTS Planning is Important

At most of the 129 sites that DOE currently estimates will require LTS, serious risks to humans and the environment will persist for decades or even centuries. States therefore consider the planning and implementation of a robust LTS program to be critically important for protection of public health and the environment in the long term, *and*, for ensuring that cleanup decisions made in the short term (which are also, by definition, stewardship decisions) are made thoughtfully.

Given the important role that long-term stewardship will play throughout the complex, we applaud the Department's early efforts to establish a coherent planning process for managing the challenges ahead.

The States continue to prefer remedies that rely on removal and decontamination of hazardous substances to achieve unrestricted land uses; however, they recognize that current constraints may preclude such full remediation in the near term. While the States and DOE may not yet be in agreement on the exact balance between removal and decontamination and LTS at many sites, it is clear that LTS (including periodic reassessments of further cleanup) will be an essential part of continuing to protect public health and the environment from the risks posed by the DOE complex.

A Common Framework for Developing LTS Data is Needed

As DOE recognized in *A Report to Congress on Long-Term Stewardship*, sites are not operating from a consistent framework when cataloging LTS obligations or quantifying LTS costs. The diversity of approaches to developing LTS data impedes the meaningful comparison of LTS obligations and costs across the complex. The states encourage DOE to use the *Long-Term Stewardship Plan Guidance* document to provide site managers, regulators, and stakeholders with a common framework both for identifying site-specific LTS obligations and for developing reliable estimates of LTS costs, so obligations and costs can be compared across the complex. Especially for cost data, it is not clear that the current draft guidance would result in this type of comparability.

¹ Working Draft—April 17, 2001

When discussing site cost data, the draft Guidance asks that site managers provide cost data and “a description of the cost model used” to produce this data. This approach will provide useful information about the diversity of cost models across the complex but will not engender consistent cost data that are comparable across sites. The States believe it is important that the sites move quickly toward the use of uniform cost models to ensure that data being provided by the sites have been developed from common criteria and assumptions.

Site-Wide *and* Unit-Specific LTS Planning & Data Is Needed

Especially at larger sites, the states believe that DOE needs to require site-wide stewardship plans *as well as* more detailed unit-specific plans. LTS plans written solely at site-wide level may fail to provide the level of detail necessary to support effective decision-making in the future while a planning document that relies exclusively on unit-specific LTS activities risks that an integrated record will not be available.

Site-wide LTS plans are needed to ensure that the full extent of LTS obligations are identified and consolidated in a single point of reference. While many site documents already contain information on LTS activities associated with specific units or areas, other activities (such as maintenance of site security and infrastructure) that are not generally associated with individual units or areas may not be covered. A site-wide LTS plan provides a framework for considering all LTS responsibilities and costs. Site-wide plans also provide a forum in which site managers, regulators and stakeholders can consider and evaluate the full range of LTS activities and compare LTS approaches among units and areas at a site and across sites in the complex. The States appreciate the draft guidance’s recognition of the importance of an umbrella document, and encourage this element of the guidance be further strengthened in future drafts.

Unit- or area-specific LTS plans, which generally are already prepared as part of remedy evaluation and selection, form the critical basis for a site-wide LTS plan. These documents are important both to the veracity of the site-wide document (by ensuring that it is rooted in the actual cleanup plans for the site) and to the ability to fully and fairly evaluate a range of remedial alternatives at remedy selection.

The States continue to believe that a careful evaluation of full remediation and restoration of sites to conditions that support unrestricted uses, which would avoid the costs associated with long-term stewardship, should be the point of departure for LTS evaluations. ***As remedies are selected, the full range of LTS considerations and costs should be included in the evaluation.*** In addition to helping the Department more accurately understand and quantify its LTS obligations, the site-wide LTS plan guidance will be helpful in identifying the LTS responsibilities and costs that might be associated with various unit- or area-specific remedial alternatives under consideration. DOE should acknowledge this role for the guidance by emphasizing the relationship of LTS planning to remedy selection

Considering LTS planning at both a unit-specific and site-wide level will ensure that future regulators, site managers, and stakeholders have access to both the broad perspective and level of detail that is required to make informed decisions.

The Definition of Stewardship Should Include All Obligations

At many of the larger sites, in addition to maintaining and monitoring containment systems, DOE LTS obligations will include responsibilities as a land manager for wildlife, recreation, or other

uses. These aspects of long-term stewardship are not addressed in the current draft of the LTS guidance. Natural resource management obligations should be addressed in site-wide plans and DOE should consider including these obligations in a broader definition of long-term stewardship.

The LTS Guidance Should be Simplified and Streamlined

The States understand that DOE is discussing the level of detail of the LTS guidance with reviewers within the Department. The States agree that determining the appropriate level of detail for site-specific LTS plans (and for the associated guidance) is difficult. While the states believe that site-specific LTS plans must completely and thoroughly identify and discuss all LTS activities and obligations, they also believe that plans should be concise and should organize information in a way that makes LTS roles, assumptions, obligations, and contingencies readily available and clear. The states are concerned that the very long, redundant, complex, tables of contents offered as guidance in Exhibits I and II may allow critical LTS information to become lost in volumes of data. In addition, the states believe that, to be useful, LTS plans must be dynamic and created in the context of on going site activities. It is not clear that the two forms of organization suggested for site-wide LTS plans encourage site personnel to see LTS planning as part of, rather than separate from, other site planning activities. LTS planning will fail if the plans are produced in a vacuum.

It may be useful to re-consider the elements of LTS that are most critical to highlight in site-wide LTS plans and to organize the guidance document around these elements, rather than around a sample table of contents. The states would be pleased to work with you on this evaluation.

The LTS Guidance Should Outline a Process for Regulator & Stakeholder Involvement in Development of Site-Wide LTS Plans

Regulator and stakeholder involvement in both LTS planning and LTS implementation is critical. The guidance should establish that sites must conduct a fair and inclusive public participation process during initial plan development and for plan changes and updates. Involvement of regulators and stakeholders early in the planning process is especially important for LTS plans, given the potential reliance of these plans on long-term institutional and land-use controls and the role that regulators, local governments and communities have in making decisions about what types of land-use restrictions are appropriate and in establishing and enforcing land-use controls.

The National Governors' Association Federal Facilities Task Force has long enjoyed a collaborative relationship with the U.S. Department of Energy. Long-term stewardship is one of the most important issues now facing DOE; we truly appreciate your efforts to involve us in developing this important guidance document and look forward to working with you on subsequent drafts. If you have any questions or require additional information, please contact me. We would also be happy to provide you with more detailed comments on this or subsequent drafts, should such comments be useful. I can be reached at 202.624.5370 or abeauchesne@nga.org.

Sincerely,

Ann Beauchesne
Program Director
Emergency Management & Environment